

5th February 1934] [Mr. B. Muniswami Nayudu]

Bill is tried to be passed by the hon. the Raja of Bobbili who can be said to be the representative of the landed classes is clear when the Raja said that the effect of my amendment will be to make the Bill a dead letter and leaving persons aggrieved to seek their own remedies. That ought not to be the spirit with which this Bill ought to be passed. This is, in its nature, a private Bill intended to protect private interests; but in doing so it should safeguard the interests of those concerned with the estates. I appeal to the hon. the Revenue Member and to the hon. the Law Member also to see that, though this Bill is passed with the majority behind them, before His Excellency gives his assent to it, the provisions there should be very carefully considered and if necessary the interests of thousands of people who have advanced money on these securities are secured."

* Rao Bahadur Sir A. P. PATRO:—"Sir, it is a pity that the hon. Member who is ordinarily a very clear thinker should get confused in this very simple matter. This is a simple matter intended to facilitate the exchange or purchase of impartible estates. The hon. Member has been very vehemently saying that the interests of money-lenders who have advanced money to these estates have not been safeguarded and therefore the Bill ought not to be passed by this House. He forgets that the object of the Bill is only to enable impartible estate-holders having properties far and away from their main holdings to dispose of them and buy estates or parts of estates in their vicinity with a view to help them to manage their property well. That is all the object of this Bill. As regards the interests created by people who have lent money to these estates, their rights remain, as asserted by the Advocate-General. That being the case I do not see any point in the objection raised by the hon. Member.

"The hon. Member has laid emphasis on the fact that this is in the nature of a private Bill and that the Government ought not to help in passing it. It is not in the nature of a private Bill. It affects the interests of impartible estate-holders on whose behalf the Government passed the Impartible Estates Act of 1904. Section 4 of that Act does not at all stand in the way of any creditor enforcing his right in a partible property which has been taken in exchange. The two ideas are quite different and are not at all conflicting in their nature. I therefore do not see any objection to the passing of this Bill."

The motion was put and carried and the Bill was passed into law.

IV.—THE PERIYAR IRRIGATION TANKS (PRESERVATION) BILL (BILL No. 16 OF 1933).

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, I beg to present the report^a of the Select Committee on the Periyar Irrigation Tanks (Preservation) Bill, Bill No. 16 of 1933, and move that the Bill, as amended by the Select Committee, be taken into consideration."

^a Printed as Appendix VI on pages 556—569 infra.

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The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it."

Mr. ABDUL HAMEED KHAN:—"Mr. President, I move that the consideration of the Bill be adjourned. Sir, this motion has been necessitated by the fact that the Select Committee was not able to go through the question fully in the absence of the information showing the area irrigated under each tank falling within the scope of this Bill. This information has been supplied to the Council only to-day. If the Government wanted to facilitate the passing of this Bill, they would have certainly given sufficient data for the Select Committee to go upon. The absence of this information to the Select Committee was a handicap to them and the conclusions they have reached are therefore not what they would have been."

"My other reason for making this motion is that for the last 30 years the Government have not found the necessity for a measure of this kind. What is it that has now compelled them to come forward with this measure? Then again, I know as a matter of fact that there was absolutely no opportunity to the people concerned to state their objections to this Bill. As hon. Members are aware the people who will be mostly affected by this Bill are the inamdars holding temple lands and lands belonging to Muslim religious institutions."

11-45
a.m.

"In view of these circumstances I would very much like that some more time is given for the people whose rights are sought to be taken away, or whose rights are sought to be restricted, so that they may consider the pros and cons of this question; and then it will be in the interest of things, after that, that this question is brought forward."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the motion and in doing so spoke in Tamil.

"இந்த பில்லை லெஜிஸ்லேடிவ் கவுன்சில் அடுத்த செஷனுக்கு ஆலோசனைக்கு கொண்டுவரவேண்டும் என்பதை ஆமோதிக்கிறேன்."

"இந்த பில்லுக்கு அவசியமான இன்வஸ்டிகேசன் செய்து போதுமான ஸ்டாடிக்கஸ்களும் கைவசம் கிடையாது. அவைகளை சிலக்ட்டு கமிட்டி மீட்டிங்கிலும் ஆஜர் செய்யவில்லை. மறுமத்து இல்லாதது இன்னது இன்னவிதமான மறுமத்து என்பது சொல்வதற்கில்லை."

"தெரிந்தவரை 1896-ம் வருஷத்திலிருந்து சுமார் 38 வருஷமும் புரோப்ரைட்டரி குளங்களுக்குத் தண்ணீர்விட்டு ஏராளமான துகைகளை பூராவும் கவர்ன்மெண்டாரே அடைந்து அவைகளுக்கு இனம்தாரே பூரூ மறுமத்துகளும் செய்து வந்து சரியான நிலைமையில் வைத்திருக்கிறார்கள் என்பதில் சந்தேகமில்லாதிருக்கிறது."

"இதுவரை மிஸ்டர் ஹால் துரை அவர்கள் ஸ்பெஷல் ஆபிசருக நியமித்த போது அவர் தீர்க்கமாக விசாரணை செய்து குளங்களை பார்த்தவர்கூட இனம் குளங்கள் நல்ல ஸ்திதியில்லையென ஒரு குளம்கூட உதாரணம் கொடுக்க கூடாத ஸ்திதியிலிருந்து இந்த பில் வருவதற்கு வேண்டிய அவசியமான காரணங்கள் இன்னும் பரியாலோசனை செய்யாமல் இப்போதே வருவதற்கு தகுந்த காரணமில்லை. அன்னியில் மிஸ்டர் ஹால் ரிப்போர்டிலிருந்து என்ன ஏற்படுகிறதென்றால் மாமூல் நஞ்சைகளுக்கு கண்மாய்களை சரியான ஸ்திதியில் வைக்கும்படி புரோப்பரைட்டர்களை கட்டாயம் செய்ய இப்பொழுது சட்டம் எஸ்டேட் லாண்டு ஆக்ட் 135 செக்ஷன்கள் இருந்தபோதிலும் குளத்து ஜலத்துக்கு யாதொரு பாத்தியமில்லாமல் நெடு நாளாக புஞ்சை சாகுபடி செய்யப்பட்டு"

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வந்த நிலங்களுக்கு தாத்காலிகமாக டெம்பரவரியாக விடப்பட்ட பெரியார் ஜலத்தினாலும் நஞ்சை சாகுபடி செய்யப்பட்டவர்களுக்கு புரோப்பரைட்டர் குளத்திலிருந்து சாகுபடி செய்ய பாத்தியமில்லாது இருக்கிறதென்று அதற்கு ஒரு சட்டம் ஏற்படுத்தவேண்டுமென்றும் வெளியாகிறது.

“இப்படி செய்கிற சட்டத்தினால் கவர்ன்மெண்டுக்கு நிச்சயமாய் கிடைக்கவேண்டிய ஆதாய துறைக்காக மாத்திரம் இனாம்தார் புரோப்பரைட்டர்களுக்குரிய பாத்தியதையில் பிரவேசிக்க ஏற்படக்கூடியதாயும் பில்லின் அதிகாரம் மிகவும் கொடுமையாகவுமிருக்கிறது. ரயில்வே புரடக்ஷன் ஆக்ட், எஸ்டேட்ஸ் லாண்டு ஆக்ட் இவைகள் நிபந்தனைகளின் கஷ்டத்தை அனுபவித்துக்கொண்டிருக்கும் இனாம்தார் புரோப்பரைட்டர்களுக்கு மேலும் கஷ்டத்தை உண்டுபண்ணக்கூடியதாயிருக்கிறது. புரோப்பரைட்டர்களுடைய பாத்தியதையில் இந்த பில் மாதிரி பாதிக்கக்கூடிய பில் இதுவரை எந்த பிராஜெக்டிலும் ஏற்படாததாலும் முன் மிமோரியல் எழுதியனுப்பியுள்ளவர்கள் கோரிக்கைப்படி சிலக்கட்டு கமிட்டி மதுரையில் வந்து விசாரித்து செய்யவேண்டும் என்பதை ஒத்துக்கொள்ளாமல் பில்லை பாஸ் செய்ய வந்திருப்பது நியாயமில்லை.

“இந்த பில் சம்பந்தமாக பூறு ஆலோசனை செய்வதற்கு செலக்ட்டு கமிட்டிக்கு போதுமான விஷயமும் காலமும் கிடைக்கவில்லையாகச்சே மருபடியும் கமிட்டிக்கு அனுப்பி கமிட்டியில் சிலர்களையாவது மதுரையில்போய் இனாம்தார்கள் வகையருவை விசாரித்தும் மற்றவர்களை விசாரித்தும் இதுவியைமான பூறு விபரங்களுடைய தெரிந்து ஓர் ரிப்போர்ட்டு சகிதம் அனுப்பும்படி செய்தால் பூறு விபரங்கள் தெரிந்தால் சிலக்கட்டு கமிட்டியும் வேறு விதமாக நியாயம் கண்டுபிடிக்கக்கூடும். அன்னியில் மிஸ்டர் ஹால் துரை அவர்களும் இதற்குள் வந்துவிடுவார்களாகச்சே அடுத்த செஷனுக்கு தன்னிவைக்கவேண்டுமென்பது நியாயம் என்றும் கவர்ன்மெண்டுக்கும் பொருத்தமானதென்று நினைக்கிறேன்.”

* Mr. V. T. ARASU :—“ Mr. President, Sir, if I rise to speak on this motion and support it, it is not with the view to obstruct the passage of this measure. On the other hand I welcome this measure for several reasons. As was pointed out by my hon. Friend, Mr. Muthu Chettiyar, who represents the Madura district, the Select Committee has not been furnished with information and data on several points regarding the project. From the tanks which I had with some of the Members of the project. From the talks which I had with some of the Members—I understand that the Select Committee was not furnished with information on several important points, that vitally concern this measure. The information which this House would expect Government to supply is as to whether, during the past 38 years, that this system has been in vogue, have Government experienced any difficulty in supplying water regularly to the ryots holding lands under the ayacut of these tanks? It was in 1896 that this system was inaugurated. Since then Government have been making use of these proprietary tanks without the express consent of the landholders and have been supplying water not only to lands registered as wet, but also to large tracts classified as dry. I want to know definitely from Government, whether, during these 38 years, they have found any instance of tanks being neglected to such a large extent as to cause damage to the Periyar project. I expect a straight answer from the Government to this. From reports that I have had from certain landholders, and from a perusal of the report of Mr. Hall, who was appointed as special officer to go into this question, I do not find even

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a single instance of any proprietor neglecting to keep his tank in such a state of disrepair as to cause damage to the Periyar scheme. When that is so, where is the urgency to rush this measure through?

"It should be remembered that Mr. Hall was for several years Collector of Madura; and he was also the special officer who investigated this matter. This Gentleman has been nominated as the Expert Member of this House on this Bill. But it is unfortunate he is not here to-day; in fact he is away from India; I believe he will be back in Madras about July next; and so I would request the hon. the Revenue Member to postpone the further consideration of this Bill until such time as he returns to Madras, so that he may throw light on the several points on which this House needs enlightenment. I therefore request Government to see its way to postpone the consideration of this Bill until such time as Mr. Hall is back here."

MR. P. V. KRISHNAYYA CHoudARI:—"Mr. President, Sir, I oppose the motion moved by Mr. Abdul Hameed Khan that the consideration of the report of the Select Committee be adjourned to the next meeting of the Council, and that for the following reasons. As one who was a Member of the Select Committee, I wish to state, at the very outset, that in the Select Committee itself we have already discussed this matter in detail. Mr. Hall was a Member of the Select Committee, and on the very first day of its sitting, he explained very lucidly and in detail the necessity for this Bill, and subsequently, we felt, on the motion to postpone the further consideration of this Bill to a later date, brought forward by Mr. Muthu Chettiyar, that there was no such necessity at all.

"The present Bill is in the interests of the ryot population. It is to their benefit that the Government have now come forward with this Bill, and so without any hesitation and delay it should be availed of. As a matter of fact, even in the Estates Land Act we should have such a measure introduced for the improvement of the tanks, and I hope the time will not be far off, when a similar Bill is brought forward for the proprietary estates. So, really we should be grateful to Government for this piece of legislation, and hence I consider that it is not desirable on our part to ask for the postponement of the further consideration of this Bill. I would again request Government to introduce similar legislation to other parts of the Presidency, where tanks are not repaired by zamindars, as for example in the Nellore district and the Venkatagiri zamindari area. When Government have come forward with a piece of legislation for the benefit of the ryots, I do not see any reason why we should not accept it. Therefore, I would request the hon. Mover to withdraw his motion."

* MR. K. R. VENKATARAMA AYYAR:—"Mr. President, Sir, coming as I do from the Madura district, I do not wish this matter to be disposed of without due consideration. So far as the Select Committee is concerned, we listened to what Mr. Muthu Chetti said. On the first point as was pointed out by Mr. Krishnayya Choudari, Mr. Hall himself

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was present in the Committee, and he explained at great length the need for this legislation. In fact, Mr. Hall has mentioned it as early as November 1930 in his report. In paragraphs 40 and 41 of Mr. Hall's report this matter has been dealt with. They run as follows:—

'40. Mr. Dowley has deferred to this question in his report wherein he says that the third cause of waste has been the failure to make full use of the available storage in the delta. Deltaic tanks get supply from Periyar, the Vaigai and their own catchments. There is a tendency to allow cultivation in the waterspreads thus reducing the capacity. This is absolutely wrong in principle and should not be allowed on any account. Another cause of inefficiency is due to the fact that many of the tanks are not provided with proper sluices and locking arrangements, the result being that when filled the water is allowed to run to waste almost at once. The tanks need control just like the channels. They form an essential part of the system and should not be allowed to deteriorate.

'41. Mr. Dowley is evidently referring to proprietary tanks. There is a certain amount of cultivation in the beds of tanks belonging to the Government either on lands registered as wet or on lands registered as special rate dry; but no extension of such cultivation is permitted'

"Lower down he says:

'to secure adequate control over these tanks legislation would be necessary. A short Bill dealing with the Periyar system alone would suffice. It need contain little more than provisions to the effect that, etc.'

"That is the model on which the present Bill is drafted.

"After sketching the sort of provisions which Mr. Hall said would require to be put in a short Bill he would up by saying in regard to the possibility of a legislation thus:—

12 noon

'I am however not in a position to advise the Government whether such a Bill which would have for its sole object an increase in the powers of Government to control the distribution of water in the proprietary area of the Periyar system would have a reasonable chance of being passed into law by the Legislative Council.'

"My Friend, Mr. Arasu, has even thought that my speech would be incomplete if I did not quote that paragraph from Mr. Hall's report. I am glad to be able to read that paragraph for the purpose of showing that the Bill is now actually before the House and that the apprehensions of Mr. Hall might not really come into play when the Bill is about to be passed into law.

"Sir, I do not understand my Friends who have moved the dilatory motions have it in their minds that this Bill is undesirable or mischievous. They do seem to concede as some of us coming from Madura feel that this Bill is a beneficial Bill and a necessary piece of legislation. Their only doubt appears to be whether the Select Committee which has sent up the report had before it all the data which have now been furnished to this Council and whether the absence of a tabular statement which has since been furnished did not affect the deliberations of the Select Committee. I must say that the delay in furnishing the tabular statement has really not affected the deliberations of the Select Committee. Even in the course of the deliberations of the Select Committee in deference to the point of view which was stressed by my Friend, Mr. Muthu Chettiyar, an offer was made to

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persuade the hon. the Revenue Member, if possible, into agreeing that the ratio so far as the charges of repairing are concerned should, if possible, be adjusted as two-thirds and one-third as between the Government and the proprietors. According to the Bill the entire proportion of cost of repairs attributable to average extent of dry area brought under irrigation, that is proposed to be borne by the Government. So far as the wet area is concerned, the Government propose, according to a rough working method, that they will bear one-half of the proportion attributable and the other half alone is thrown upon the shoulders of the proprietors of tanks. Now the tabular statement embraces as many as about 183 tanks. I find that the total number of tanks which come under the operation of this Bill are somewhere about 206. For about 183 tanks out of them figures have been supplied. In no single case out of these tanks has any proprietor to bear more than 50 per cent of the total cost of repairs. According to the law, as it stands now, under the Madras Estates Land Act, the entire cost of repairs to these tanks would fall upon the proprietors of these tanks. By reason of this Bill in regard to Periyar, non-Government tanks generally the Government come forward with an offer to bear in varying proportions the total cost of repairs and in no case do they have to pay less than 50 per cent of the total cost. I find that out of 183 tanks there are 27 tanks in which the proprietors are left to bear only less than 25 per cent of the total cost. The total area of ayacut which these tanks irrigate comes to somewhere about 3,150 acres. There are as many as 44 tanks with an ayacut of 4,550 acres in regard to which the proprietor is made to bear less than $33\frac{1}{3}$ per cent. In 139 out of these 183 tanks, with an ayacut of 12,350 acres, the proprietor is called upon to bear 50 per cent and the Government bears the other 50 per cent of the total cost of repairs.

“Speaking in a general way under the present law the proprietor has to bear the whole cost of repairs, hereafter the Government bear in varying proportions, in some cases 50 per cent, in some two-thirds and in some three-fourths. It cannot be said that the offer of the Government is less than generous. No doubt it might not suit the proprietors of tanks. An attempt was made in the course of the deliberations of the Select Committee to persuade the hon. the Revenue Member to draw the line at two-thirds and one-third. I myself made an attempt. It was felt as representing the view of the general taxpayer of this Presidency that the Government had gone as far as they could and it would involve a further examination of all questions including the question of finance if Government had to revise their attitude along the lines suggested. In these circumstances, I do not think there is much to be gained by delaying the progress of this Bill. I would advise the Movers of the amendments, if possible, to concentrate their attention upon detailed amendments where they propose to enforce any other principle in regard to the distribution of proportion for which they might have warrant or even authority in

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Mr. Hall's report. I therefore suggest that they had better concentrate upon that and not press this motion. If perhaps there is voting strength for the Government, I do not think that there need be a trial on every occasion when we have to deal with motions of this kind. I think the Movers of the amendment would do well to withdraw their present amendments and focus attention upon the details of the proposals on their merits."

* The hon. Sir ARCHIBALD CAMPBELL:—"After the speech of my hon. Friend, the Chairman of the Select Committee, I do not think it is necessary for me to deal at any great length with the question whether the Members of the Select Committee have had sufficient time and adequate information to enable them to make a full examination of the proposals made in this Bill. There are however one or two points which I may refer to. The Mover of the motion asked why the Government brought forward this Bill after a lapse of over 30 years since the Periyar Irrigation System was brought into operation. We have tried, Sir, for a great many years, to get over these difficulties without having recourse to legislation, but it has been found impossible to do so. I suppose hon. Members appreciate the necessity of maintaining these tanks which form part of the system when there is short supply of water in the rivers, water can be stored in these tanks and from these reservoirs a large area of ayacut under them can be irrigated, while the water is passed lower down the supply channels to the tail-end land. When the tanks are in a bad condition, it will not be possible to store adequate supplies in them; water will be wasted and the irrigation of the tail-end fields will be inadequate. It is for that reason that we want to maintain these tanks and to keep them in good repair. My hon. Friend, Mr. K. R. Venkatarama Ayyar, read from the report of Mr. Hall. Mr. Hall's views are supported by other engineers:—"Many of these proprietary tanks are very large and very important—quite as important as any of the Government tanks. It has always been recognized that the tanks in the Periyar area are most important and it is most essential to keep them in good order. The system could not work without them." That, Sir, is the opinion of the present Superintending Engineer, Mr. O'Brien. He adds that ever since the system began we have done our utmost to keep the Government tanks in good order and very large sums have been spent by the Government in improving and repairing them. In the year 1929, an important memorial was received from the ryots of the Periyar system headed by my hon. Friend, the present Second Minister. I should like to quote from that memorial a few sentences to show the necessity for keeping these tanks in proper order. This is what the memorial states:—

'The rest 25 per cent of the grievances relate to the standing grievances, such as the ineffective regulation in the distribution of water in the tail-end of channels, etc. Ever since the introduction of the Periyar system of irrigation in the district, the tanks in that area have been either neglected or the lands in the tank-beds have been sold owing to the direct flow of water in the channels. Such tanks as are not sold may be restored to their original condition with a view to store water for purposes of irrigation or drinking-water for cattle in times of scarcity or emergency.'

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"It was in consequence of this memorial that Mr. Hall was put on special duty from whose report Mr. K. R. Venkatarama Ayyar quoted at length. After the receipt of that report—I am referring to the remarks made by my hon. Friend, Mr. Muthu Chettiyar, whom, I understood, to say that it was desirable for the Revenue Member to see the areas affected personally—I did go down to Madura and in company with Mr. Hall and the Executive Engineer visited some portions of the Periyar Irrigation System; so, I may say, that I am in a position to appreciate the difficulties of the ryots. After that I had a conference with the Collector and the Engineer at Kodaikanal at which the details of the present Bill were discussed. There might be certain difficulties in carrying out the proposals made in Mr. Hall's report, so, I wished to make our proposals as simple as possible. I hope that the House will be satisfied that I have already investigated this matter personally. I understood my hon. Friend, Mr. Muthu Chettiyar, to say that I might attribute certain unworthy motives to him in consequence of the attitude he has adopted towards this Bill. I fully appreciate his position in the matter. I can appreciate the fact that he acted quite rightly and properly in putting forward his view before the House and I did not and do not attribute any unworthy motives whatsoever to him."

12-15
p.m.

The motion was, by leave, withdrawn.

The question that the report of the Select Committee on the Periyar Irrigation Tanks (Preservation) Bill (Bill No. 16 of 1933) be taken into consideration was put and carried.

Clauses 1 and 2 were put and carried.

Clause 3.

* Mr. V. T. ARASU:—"I move—

'that in sub-clause (c) of clause 3, after the words "system of irrigation," the following words be added:—

"whose registered wet ayacut is 50 acres and more."'

"The clause as amended will read as follows:—

'(c) "tank" means any tank situated wholly or partly in an estate and used by the Government as part of the Periyar system of irrigation whose registered wet ayacut is 50 acres and more.'

"Sir, from the list of tanks supplied to this House only the other day, it will be found that there are about 180 tanks or so which are to be brought under this system. I understand from the speech of Mr. Venkatarama Ayyar that the number of tanks actually in that area exceeds 210. Whatever the exact number may be, from this list we find that even small tanks which irrigate only two acres are sought to be brought under the operations of this Act. If the hon. the Revenue Member would analyse the figures he has himself prepared he would find that nearly 100 of these tanks have an ayacut exceeding

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50 acres and all the other tanks are small tanks irrigating 5, 10, 15, 20 or 25 acres. Is it proper and just that these small tanks, which are tanks only in name and which should not be considered as tanks for the purposes of this Act, should also be brought under the operation of this Act? It is why I have suggested that only those tanks whose registered wet ayacut is 50 acres and more should be brought under the operation of this Act. I hope that my amendment will be acceptable to the House."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded it in Tamil as follows:—

“என்னென்றால் சிறிய கண்மாய்களை எல்லாம் இதில் சேர்க்கப்படாது.”

* The hon. Sir ARCHIBALD CAMPBELL:—“ Mr. President, Sir, I am afraid I must oppose this motion. The effect of this resolution would be to exclude some 91 of the 206 tanks which are affected by the present Bill. The question of which tanks should be maintained as part of the Periyar Irrigation System was carefully investigated some years ago by a special party of Public Works officers as a necessary preliminary to fixing the full tank levels of the tanks. The tanks which we have on the list have been definitely put there by our engineers as those which are necessary to be maintained as part of the system. It does not include every tank which happens to exist in the area, but only those tanks which we require for the purposes of the Periyar system. The question whether a tank happens to have a larger or a smaller ayacut does not affect the necessity for its maintenance as part of the system. If we remove the 91 tanks it will mean that we will have to revise our ayacuts and remove from it a certain number of fields which at present get the benefit of the Periyar water at the tail-end of the system.”

* Mr. K. R. VENKATARAMA AYYAR:—“ Sir, I do not think that this amendment is in the interests of agriculture which require that the whole of the 200 and odd tanks affected by this Bill should be maintained in an efficient condition. It will do nobody good to cut out of the Bill as many as 91 tanks even though their ayacut is 50 acres and less in each case. There is nothing to be gained by the proprietors of bigger tanks who may be considered to be effectively represented by my hon. Friend, Mr. Muthu Chettiyar. I do not say he does not represent the proprietors of smaller tanks; he represents all the interests involved although in a sense he represents the interests of the proprietors of bigger tanks more closely. But, no cry has been raised by the proprietors of smaller tanks which are as many as 91, or the ryots concerned to the effect that repairs to these tanks are any the less important or less necessary than repairs to the bigger tanks. In any case, the interests of agriculture will stand to be affected adversely by cutting out these 91 tanks. Therefore this amendment is hardly for the benefit of the persons affected by the irrigation system.”

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* Mr. V. T. ARASU:—"In spite of the speeches of the hon. the Revenue Member and the hon. the Member for the City of Madura, I still feel unconvinced. From the list, you will find that there are as many as 50 tanks with a registered wet ayacut of less than 10 acres. For instance, the Ammankulam tank has 2.05 acres, the Peria Kanmoi has 6.19 acres, the Soorakulam Kanmoi 6.18 acres, the Papankulam Kanmoi 9.6 acres, the Peekulam Kanmoi 4.95 acres, the Kondisetti kulam 4.41. More than 50 of these tanks have a registered wet ayacut of less than 20 acres and in most cases of only two, three or four acres. Is it fair that such small tanks should be brought under the operation of this irrigation system and the Public Works Department entrusted with the duty of making the necessary repairs to them? The maximum revenue that a landholder may derive from many of these small tanks will be not more than Rs. 10 per annum. But even a small repair which the Public Works Department may undertake to do will come up to Rs. 1,000. As against Rs. 10 which a landholder derives from a tank, he may at any moment be asked to pay as much as Rs. 500. Therefore, I feel there can be no justification for the Government including these small tanks which in fact are no tanks at all, which are called *kuttais* in Tamil, within the irrigation system. I appeal to the House to accept the amendment."

The amendment was put and lost.

* Mr. V. T. ARASU:—"Mr. President, I beg to move—

that the following sub-clauses be added to clause 3:—

"(d) 'efficient condition' means and includes 'a condition of the tank sufficient to make its storage capacity approximate to that required for the irrigation without the aid of the Periyar water of the land registered as wet under it.'

"(e) 'Court' in this Act means 'the Court of the lowest grade having territorial jurisdiction over the particular tanks concerned.'"

"The word 'efficient' has been introduced in the Preamble. As far as my knowledge goes, I do not think that in any legislation of the Local Government the word 'efficient' has been used. Therefore my object is to define the word in a manner so as to be understood easily by all people concerned. Section 135 of the Estates Land Act no doubt makes it obligatory on the part of a landholder to keep his tank in a state of repair so as to ensure a regular supply of water to the lands registered as wet in the ayacut. I am sorry that my hon. Friend, Mr. P. V. Krishnayya Choudari, and even such an experienced lawyer as Mr. K. R. Venkatarama Ayyar should have taken the analogy of the Estates Land Act and observed that what applied in the case of a landholder under the Estates Land Act would apply equally to a landholder in this case. Under the Estates Land Act, the Government make certain repairs when there is no agreement between the ryot on

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the one hand and the landholder on the other. But here in this case, the Government are one interested party and the landholder is the other interested party; and the question of the ryot does not come in at all. For the last 38 years, the Government have been utilizing these proprietary tanks for their own benefit, and as has been admitted by the hon. the Revenue Member himself, during these 38 years they have not spent a pie towards the repair of these tanks. These tanks have been kept in repair only by their respective proprietors. I fail to see how the position of a landholder under the Estates Land Act can be said to be analogous to the position of a landholder under the Bill now under discussion. Under section 135 of the Estates Land Act, the landholder is only bound to keep the tanks in such a state of repair as to ensure the necessary supply of water to the lands registered as wet in the ayacut. Under this Bill Government compel the proprietors to keep the tanks in such a state of efficiency as will enable them (Government) to supply water not only to the lands registered as wet, but also to the large tracts of lands registered as dry and brought under wet cultivation. The idea of the Government obviously is that the tank bunds will have to be raised considerably so that they may be able to bring a larger area of dry lands under cultivation and derive a larger benefit.

“It is not fair that the proprietor should be called upon to contribute a share of the cost of the efficient maintenance of the tanks. He is bound to keep it just in a state of repair, just as would meet the demands of the wet lands under it, if Periyar water had not been brought and stored in it. 12-30 p.m.

“Sub-clause (e) which is sought to be introduced, is only to give effect to certain amendments which have been given notice of and will be taken up by the House presently. In the amendment to the later clauses it is suggested that appeal should vest in the civil court over any decision that the Collector may come to. For that purpose it is necessary to define as to what that ‘court’ would mean. Perhaps the Government would come forward and ask what is meant by the court of the lowest grade. The answer to that is, it is not the Panchayat Court or the Village Munsif’s Court. What I mean is a regular civil court, that is the District Munsif’s Court having jurisdiction over that area. I do not believe that the Government would have any objection to this amendment.”

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment and spoke in Tamil as follows:—

“இது ஒரு ஆக்கிலும் குறிக்கப்படாதது. அர்த்தம் நிர்ணயிக்கப்படாத வார்த்தை இதை யார் சொல்லக்கூடியவர். குளத்தின் விஸ்தீர்ணத்தையாவது அதின் லெவலையாவது அதிகப்படுத்த தாவா பில் கொண்டுவரப்பட்டுவிட்டே என்று நிச்சயம். எஸ்டேட் லாண்டு ஆக்ட் அபிப்பிராயமும் அதுவே. ஆகையினால் பின்னால் தாவா இல்லாமலும் வேரு விதமாக யாரும் அர்த்தம் செய்யாதிருக்க இப்பொழுதே அதை நிர்ணயம் செய்யவேண்டியது அத்தியாவசியம்.”

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* Mr. K. R. VENKATARAMA AYYAR:—“ Sir, if the words ‘ efficient condition ’ should be interpreted in the manner proposed, the result would practically be to frustrate the main purpose of this Bill. The purpose of this Bill is to empower the Collector to propose necessary measures for repair when a tank falling under the operation of this legislation is found by him to be in a state of disrepair. The word ‘ efficient ’ wherever it occurs in this Bill must be correlated with the other words ‘ state of disrepair ’ which is the phrase in the leading section—section 5 of this Bill. Therefore it is only when a tank is found to be in a state of disrepair, that an attempt is made to put it in a state of repair or efficiency. Therefore there is not much difficulty in understanding what is meant by the terms ‘ efficient condition. ’ Suppose the annotation of the words ‘ efficient condition ’ proposed in the new clause (d) is adopted; what does it come to? All that is necessary according to the Mover of the amendment is to maintain a tank in such a state of repair as could be necessary to keep it if it were not part of the Periyar system. That is what it comes to. The dominating purpose of this legislation is to keep it in a state of efficient repair because it is part of the Periyar system and the repair that is contemplated is that repair which would be necessary in the case of the Periyar non-Government tank. The tank is a part and parcel of the Periyar system and has been so for a period of 38 years and the proposal of the proprietor of the tank is not to take it out of the Periyar system but to continue to maintain it as part of the Periyar system. To say that he will keep his tank in such a condition as not to allow a drop of the Periyar water into it, is to say that it should be taken out of the Periyar system. That is defeating the whole purpose of this legislation. I submit therefore that the proposal that is made to annotate the words ‘ efficient condition ’ is not as innocent or innocuous as it is attempted to make it appear. This is a very dangerous amendment and it would go to frustrate the main purpose of this legislation.

“ Then going to the other expression, in the Bill as it now stands there is reference to ‘ court ’ only in section 11. There is ultimate resort to civil litigation provided for in section 11 of this Bill. If some of the amendments which have been tabled should be carried, then the civil court would get jurisdiction under this Bill even in respect of other topics than those which are provided for in section 11. The amendment says, where there is need to annotate the word ‘ court ’ means only the District Munsif’s Court. The court of the lowest grade amongst the courts constituted under the Civil Courts Act would be the District Munsif’s Court. Under the Civil Courts Act, the pecuniary jurisdiction of the various grades of courts is already statutorily fixed. The court that would have pecuniary jurisdiction for a particular suit which may be filed when this Bill became law, would be the court of the proper pecuniary jurisdiction. Suppose the suit were valued at an amount above the pecuniary limit of the District Munsif’s

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Court and yet to annotate the word as proposed would mean that a suit instituted under the provisions of this enactment would have to be instituted in the District Munsif's Court even if the value of the suit exceeds the pecuniary limit of the Munsif's Court's jurisdiction. You would abrogate in effect the provisions of the Civil Courts Act bearing upon the topic of the limit of the pecuniary jurisdiction of the various grades of courts. I do not think any good purpose is gained and it would be impossible to allow for the purposes of suits falling under this Act alone, higher pecuniary jurisdiction for Munsif's Courts. I do not at all clearly see what is the object of all those who propose this amendment. Perhaps they do not see the effect such as I have now pointed out to be. If they had perceived that, they would not propose this amendment. The words 'the court of the lowest grade' do not serve any good purpose at all. I oppose this amendment also. To the extent that civil courts are invested with jurisdiction to try matters which might otherwise have been closed by Collectors and Government decision to that extent, whichever court which would normally have pecuniary jurisdiction, would try these suits, except for this amendment. Therefore there is nothing gained by this amendment. For these reasons I oppose the proposed amendments."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, after what my hon. Friend, Mr. Venkatarama Ayyar, has said, it does not seem necessary for me to say very much in opposing this motion. If the first of these two amendments were passed, it would provide very considerable opportunities for argument as to what is really necessary to make the storage capacity of a tank approximate to that required for the irrigation, without the aid of the Periyar water, of the land registered as wet under it. On this matter there might be considerable difference of opinion and considerable argument on behalf of the Government and on behalf of the zamindar. We have provided only for repair and restoration and not for the improvement of the tanks. We shall not be able to make the zamindars do anything more than what they would ordinarily have had to do. We have provided in the Bill for the landholder appearing before the Collector and raising objections that measures other than those proposed would be sufficient for the repair of the tank and its restoration to efficiency. There is sufficient safeguard to prevent the Government from doing more than what the Legislature intends to be done by way of improvement of the tank under cover of this law. As regards the second amendment, Mr. Venkatarama Ayyar had dealt fully with the point."

* Mr. V. T. ARASU:—"I feel, Sir, that the Government and my hon. Friend, Mr. Venkatarama Ayyar, are unreasonable in this matter. When in the year 1896 Periyar water was brought in, there was a certain extent of land registered as wet under each tank. That area is the same even to-day. It has not in any way increased; the assessment collected by the landholder is also just the same as it was before the year 1896. Say, the landholder was collecting in the year 1896 a sum

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of Rs. 2 per acre for the lands registered as wet under a particular tank. He is collecting the same amount even to-day. The revenue of the landholder has not in any way increased. On the other hand the Government have been deriving benefit by the use of these tanks in an increasing measure year after year because they have been increasing the extent of dry lands irrigated by water from these tanks. It is only the Government that have been benefited all these 38 years. The landholder is not in any way benefited."

The amendment was put and lost.

Clause 3 was put and carried.

Clause 4.

* Mr. V. T. ARASU :—" Mr. President, I move that—

'In the place of all words after the word " tank," the following be substituted:—

" The Collector shall give notice to the aggrieved parties, and after an inquiry and hearing, the parties aggrieved, shall decide the same, which decision shall be final subject to the result of any suit that may be instituted within six months from the date of the decision by any of the aggrieved and interested parties.

" Provided that if any lands on the foreshore or bed of the tank have been granted to the tenants and are being cultivated by them for a period of not less than twenty years they shall not be classified as the area of the tank "

" Sir, no doubt in clause 11 of this Bill, power is given to the affected parties to go to a civil court against a decision of the Collector; but instances of the kind contemplated by the Government when they gave power under clause 11, I believe, will not arise at all and therefore I think it would be proper if the provisions of clause 11 are transposed and added on to clause 4 of the Bill where they are absolutely necessary.

" My hon. Friend, Mr. P. C. Muthu Chettiyar, will give this House several instances in which the Collectors have erred in coming to a decision as to whether an area forms part of a tank or not. I shall only give the instance of one tank owned by the Goripalaiyam durga in the Madura district. There Collector executed certain repairs to the tank against the will of the landholder and collected from him costs to the extent of about Rs. 2,000. After the repairs have been effected, certain tenants in the neighbourhood of that tank have filed a suit for damages, against the proprietor, for alleged curtailment of certain sources of their own water-supply, on account of the repairs effected by the Collector. Thus you will see, Sir, for repairs effected by the Collector, for which the landholder was in no way responsible, he has been called upon to pay damages to the neighbouring villagers, to the

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extent of about Rs. 1,000. I believe, Sir, this instance is well known to the Government. In order that such instances may not occur, what is asked for in this amendment is that the Collector shall give sufficient notice to the parties concerned, and even after his decision is given, power should be given to the landholder or for the parties concerned to take the matter up to a civil court. For, after all, the Collectors, with all their numerous duties, find no time to dispose of these technical matters to the satisfaction of the concerned parties. Rightly or wrongly, people do apprehend that the Collector—it may not be willingly, but—may sometimes find it beyond his control to go into these matters in any detail. If these matters are left to a civil court, it is natural to expect the court to go into them in detail and do justice to the parties concerned.”

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in a Tamil speech as follows:—

“ஆறு மாதம் செக்ஷன் 11-ல் சிலில் சூட்டுக்கு ஏற்பட்டிருப்பது அனாவசியம். அதில் கண்ட விஷயம் நேரிடக்கூடியதல்ல. வரக்கூடியதுமல்ல. அந்த செக்ஷனை இந்த இடத்தில் உபயோகிப்பது நியாயமாகும்.

சமீபத்தில் கோறிப்பாளையம் தர்காவில் ஒரு கண்மாயை கலெக்டரவர்களால் மறமுத்து செய்ய கட்டாயப்படுத்தி சமார் ரூ. 2,000-க்கு மறமுத்து செய்து அகுதாரிடம் வசூலாகிவிட்டது போலும்.

அடுத்த கிராமத்துக்காரர் தங்கள் நிலத்தில் தண்ணீர் அதிகமாய்ப் பிடித்து ரூ. 1,000 நஷ்டம் நேர்ந்ததாக அகுதார்பேரில் சூட்டு போட்டு தீர்ப்பாகி ஹைகோர்ட்டில் அப்பீல் பெண்டுகிவிருக்கிறதுபோலும் தெரிவித்தார்கள்.”

* The hon. Sir ARCHIBALD CAMPBELL:—“ Mr. President, Sir, I oppose this amendment. It does not seem to me to be necessary that the civil court should be resorted to for the determination of what is necessarily a question of fact, viz., the area which is or forms part of a tank. This is a question of considerable importance, as in the earlier days of the Periyar system considerable areas of tank-beds were actually irrigated and we had to take measures to stop irrigation of those lands in the interests of the system as a whole. I may here, Sir, quote from Mr. Hall's report, regarding the withdrawal of irrigation permits in certain cases. This is from paragraph 21, clause (b) at page 9 of the report:

‘Another set of permits issued in proprietary villages were withdrawn under different circumstances. The indiscriminate assignment of lands in the beds of tanks in proprietary villages and the consequent extension of irrigated cultivation in the beds of certain of those tanks which were required as part of the Periyar system became such a serious danger to the efficient working of portions of the system that it became necessary to take steps to discourage such cultivation and prevent it where possible. Accordingly a special engineering establishment was entertained to classify the proprietary tanks into those required as part of the Periyar storage system and those not required for that purpose; and to investigate the full tank levels of the former class of tanks in order that permission to irrigate lands lying in the tank-bed and below the full tank levels of tanks of that class might be refused or if already given, withdrawn. The work was carried out. Effect was given to the policy; and a certain number of permits were withdrawn. That this fixing of the

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full tank levels of proprietary tanks was really necessary in the interests of the ryots holding lands under the tanks was more or less recognized by the memorialists and others present at the first conference at Melur. Vague allegations were made that the full tank levels had been fixed improperly or arbitrarily. Detailed discussion, however—particularly with Mr. T. Ramaswami Ayyar, a retired Assistant Engineer—established the fact that wherever possible the full tank levels had been fixed with reference to the existing masonry escapes; that this had not been done only in cases in which the masonry escapes were not in a fit condition to enable this to be done; and that in such cases the probable full tank level in pre-Periyar days had to be calculated from such other data as were available.

These remarks, Sir, are sufficient to show that the areas have been already fixed with reference to such data as could be obtained and measures have already been taken to prevent the cultivation and irrigation of those areas. A certain number of hard cases have also been specially dealt with in Mr. Hall's report. I submit, Sir, that in view of these facts and the investigation that has already been made, it is not necessary to direct that any enquiries must be made by the Collector, nor to subject the decisions of the Collector to an appeal to the civil court."

* Mr. V. T. ARASU:—"Mr. President, Sir, at any rate in regard to the second part of the amendment, I thought the Government would find their way to accept it and that this House also would be prepared to accept it. The purport of the second portion of my amendment is this: some of the lands in the tank-beds have been under cultivation and in the continuous possession of certain ryots for over twenty or thirty years, even long before the Periyar system was introduced. By virtue of the fact that these ryots have been in possession of the land and have been cultivating such land for a long period, they have acquired occupancy rights. When occupancy rights are sought to be given even in the case of ordinary inam lands to those who have been in possession for a certain period of years, I fail to see why such occupancy rights should not be conferred on the ryots of this area who have been cultivating the land for more than twenty years. The provision here is only for people who have been continuously cultivating for a period of not less than twenty years; and it is my submission that their rights should not be affected. The plea raised by the Government is that if such beds of tanks are allowed to be cultivated indiscriminately, the storage capacity of the tank would go down; but when during the past 38 years the Government have not experienced any difficulty and have been storing water in the tank to the full tank level, I fail to see how in the future, the full tank level would be reduced on account of the fact that certain portions of the bed are being cultivated by certain ryots. I appeal to the Government to accept at least the second portion of the amendment which is purely in the interests of the ryot population who have been cultivating these lands for more than twenty years."

The amendment was put and lost.

Clause 4 was put and carried.

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Clause 5.

1 p.m.

* Mr. V. T. ARASU :—“ I move—

“ In clause 5 after the words “ that any tank is in ” add the word “ such ” and after the word “ disrepair ” insert the words “ so as to cause damage to the Periyar system ”.”

“ The clause when amended will run thus : ‘ Whenever it appears to the Collector that any tank is in such a state of disrepair as to cause damage to the Periyar system, he may pass a preliminary order, etc.’ The effect of this amendment is this. In determining as to whether a tank requires repair or not the Collector should take into consideration the fact whether by reason of the present condition of the tank the Periyar irrigation is likely to be jeopardized. If the Collector thinks that because of the neglect on the part of the landholders the Periyar system is going to be endangered the Collector may pass any order that he may think fit. This is merely a verbal amendment and I believe Government would not oppose this amendment.”

* Rao Bahadur P. C. MUTHU CHETTIYAR in seconding the amendment in Tamil said :—

“ கணமாய் பார்த்தமாத் திரத்தில் தோணுவது கூடாது.

* The hon. Sir ARCHIBALD CAMPBELL :—“ I am not prepared to accept this amendment. It seems to me that this is another amendment which will simply lead to delay in the proceedings before the Collector. There will be argument as to whether a particular disrepair will cause damage to the Periyar system or not. We have provided in this Bill a procedure which we want to be as simple as possible. We do not want to have complicated arguments on behalf of one side or the other as to what is likely to happen if something is not done or as to what will happen in certain hypothetical conditions. All we call upon the landowner to do is to carry out the repair or the restoration of the tank and nothing more. That is what he would have had to do if there had been no Periyar system.”

* Mr. V. T. ARASU :—“ The hon. the Revenue Member says that they do not want that there should be any delay before the Collector. Sir, I fail to understand why they should be anxious that these things should be disposed of in a day or two without reasonable opportunities being given to the parties concerned. Experience of the past 38 years goes to show that no necessity has ever arisen for the Government or the Collector to interfere immediately. The hon. Member went on to say that they do not want complicated arguments at all. That is a statement which I believe the House would not agree to. It is necessary in these matters where private rights are concerned that both the parties should be heard at length. The Collector should inquire into all the aspects of the question and then only come to a decision. Merely by seeing the tank from one end to the other one cannot come to the conclusion that it is in a state of disrepair and therefore repairs ought to be effected immediately. The Collector should hear the parties concerned before he passes any preliminary order and if, even after hearing

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the parties, he still thinks that by reason of the tank being not kept in repair it will cause permanent danger to the Periyar system, it is open to him to pass the order. Therefore, it is not going to cause any delay as anticipated by the hon. the Revenue Member. On the other hand, Sir, it is our wish that these proceedings should be as expeditious as possible. But, for the sake of expediency, we should not sacrifice justice and fairplay."

The amendment was put and lost.

* Mr. V. T. ARASU:—"Sir, there is another amendment to the same clause. It is as follows:—

'For the words "sixty days," substitute the words "six months".'

"As amended that portion of the clause will read as follows:—
'The Collector shall send copies . . . requiring him to appear before the Collector on a date to be specified in the notice not being less than six months after the date of the notice, etc.' My object in moving this amendment is not to defeat the purpose of this Act as my hon. Friend, Mr. Venkatarama Ayyar, seems to think. The difficulty involved in giving only sixty days can be seen from the following instance. Supposing in November or December when the crops are standing the Collector passes an order asking the landholder to come forward and explain why repairs should not be effected, it would not be possible at all for the landholder to proceed to the spot and prepare his reply. The crops are there and therefore no investigation of the condition of the tank would be possible. It is only after the harvest that the landlord can possibly go to the spot, satisfy himself and then prepare any statement that he may wish to file before the Collector. That would take him on to March. Therefore it will be seen that two months is a very short period. The landholder should be enabled to secure technical advice, to inspect the spot and satisfy that the tank requires repair. For these reasons sixty days will be most inadequate and six months at the least would be found necessary."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in the following Tamil speech:—

“லாண்டு ஹோல்டர்களுக்கு இஞ்சினீயர், ஒவர்ஸீயர் கிடையாது. கண்மையில் தண்ணீர் நிற்கிறகாலமாயிருந்தால் ஒன்றும் தெரியாது. ஒரு வரீஸன் தேவை.”

* Mr. K. R. VENKATARAMA AYYAR:—"When the Bill was originally introduced there was no limit of time mentioned. The Bill said: The Collector shall send copies of such plans and estimates to the landholder of the estate in which the tank is situated or if the tank is not wholly situated in one estate to each landholder concerned together with an order in writing requiring him to appear before the Collector on a date to be specified in the notice and show cause why the measures specified in the said plans and estimates should not be carried out. That is how

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the section originally ran. There was no time limit fixed then, but it was left open to the landholder or landholders concerned to appear before the Collector to show cause to propose rival measures and less costly measures. After considerable discussion with regard to this in the Select Committee, we arrived at the period of sixty days as a fair and reasonable limit of time which would give the landholder or landholders concerned adequate opportunity to inspect the tank in question and to take technical advice for examining the plans and estimates proposed by the Collector. It is not as if the Collector is going to choose a very unsuitable period in the year. The month of November has been pointed out as an example. That will be a month when the Collector won't issue notice and that will be a period when there will be water in the tank. No Collector who went about his business in a businesslike way would be expected to choose an extremely inappropriate season as the season when he should issue notice and as the season when the landlord or landlords are required to show cause why the plans and estimates should not be carried out. The Collectors as well as landlords are interested and they would select a suitable time of the year with due regard to the requirements of the standing crop and with due regard to the stagnation of water in the tank.

"Then the other question is whether two months' time is enough to enable the landlord to examine the plans and estimates. If you should really allow a period of six months the only part of the year that might be available for putting through the scheme of repairs might become the next agricultural season and the Collector and the ryot would both find themselves in the very same plight and be obliged to leave the tank in a state of disrepair.

"I think sixty days is quite an adequate interval for any business-
man to proceed with the business in a businesslike fashion to investigate
into the plans and estimates proposed by the Collector and to come
forward with alternative plans and estimates and that six months would
mean an unreasonable delay and would frustrate the very purpose of the
Bill, namely, carrying out speedy repairs."

1-15
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* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. Venkatarama Ayyar has already dealt with and given reasons for opposing the motion. We have not only to consider the interests of the owners of tanks, but we have also to consider the ryots, whose interests are adversely affected by the tanks being left in a state of neglect and disrepair; and in the interests of the ryots it is desirable that there should be no undue delay in the execution of the repairs to these tanks. Sir, I am sure, we can trust the Collector to be reasonable in dealing with the owners of tanks and they have also the power to adjourn the enquiry on adequate reason being shown by the owners of tanks on the first date fixed for the enquiry. If therefore sixty days is not sufficient in any particular case, I think we can trust the Collector to grant an adjournment to enable the owner of the tank to complete his investigation but we do not want the proceedings to be drawn out too long."

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* Mr. V. T. ARASU:—" Mr. President, Sir, I request the Government to find their way to accept sixty days after the *service* of the notice. The words used in the Bill are 'sixty days after the *date* of notice'"

* The hon. the PRESIDENT:—" I thought the hon. Member was going to reply. I did not think that he was going to bargain."

Mr. V. T. ARASU:—" As I have already explained, Sir, sixty days is too short a period for the proprietor of the tank to appear before the Collector and raise his pleas. Even if the Government should find that six months is too long a period as the hon. the Revenue Member observed, it is quite reasonable for the landholder to expect a notice of sixty days from the date on which such notice is served on him. If the landowner is absent from his headquarters and notice does not reach him and still in spite of that fact, if he is to be called upon to appear before the Collector, it would be impossible for him to do so, especially when he is not aware of the fact that a notice has been issued. For these reasons, I feel that at least sixty days after the service of the notice may be accepted by the Government."

* The hon. the PRESIDENT:—" The question is that for the words 'sixty days' substitute the words 'six months'."

The amendment was lost.

* Mr. V. T. ARASU:—" I move that—

"In clause 5, the words beginning with "The Collector" and ending with "made" shall be omitted."

The provision made in the Bill is to the effect that in issuing the notice, the Collector shall cause the same to be notified in the villages concerned by means of beat of drums, etc. When a notice is served on the proprietor of the tank, and when he comes forward before the Collector to raise his plea, I fail to see where the necessity arises for the Collector to make this notice known by affixing it in a prominent place and by beat of drum, etc. For the existence of cordial relations between the landlord and the tenant, it is necessary that such publicity ought not to be given at all. If, in spite of the notice, the landholder fails to appear before the Collector and accept the suggestions made by the Collector, it may be reasonable to direct the Collector to publish it in the village concerned and make that fact known to the villagers. But, when the landholder appears before the Collector and puts his plea, there is no necessity for making this notice known to the whole village concerned."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in the following Tamil speech:—

"ஏனென்றால் முதலில் கலெக்டர் உத்தேசத்தை கொடுப்பதால் எல்லா பார்டிக்கு சார்வாகம்போது அது தேவையில்லை. நேரில் சார்வாகாவிடில் செய்யலாம். அனாவசியமாக விஸ்தரிப்பது தேவையில்லை."

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* Mr. K. R. VENKATARAMA AYYAR:—" Sir, the mover of the amendment seems to ignore the interests of the ryots concerned. It is certainly necessary that the ryots concerned should be in the know of what measures are proposed by the Collector by way of repair. They are also given an opportunity in the subsequent sections of this Bill to appear before the Collector to have their say as to what kind of repairs would meet the requirements of the case. Therefore, it is important that the notice of the Collector should be affixed in a conspicuous place in the village or the villages concerned, so that all the ryots concerned may come to know what was going on and what was proposed to effect by way of repair. I wonder what the landholder stands to gain by asking for the deletion of this clause. It looks as if some of the landholders do not wish to be advertised in the area concerned that they have neglected to maintain their tanks and that the Government are proposing to effect repairs in the interests of all concerned. It might be a matter of prestige, but so far as the real requirements of the situation are concerned, it is distinctly an advantage that all concerned should have the benefit of vernacular notices and vernacular translations of the plans and estimates which would give the necessary information to the entire area."

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, for reasons already explained by my hon. Friend Mr. Venkatarama Ayyar, I oppose the motion."

The motion was put and lost.

Clause 5 was put and carried.

Clause 6.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, I move—
'that in the opening paragraph of sub-clause (i), in line 3, for the words "an objection" the words "any of the following objections, namely:—" shall be substituted.'

This is purely a verbal amendment."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" I second it, Sir."

The amendment was put and carried.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, I move—
'That in sub-clause (i) (a), in line 3, the word "or" be omitted.'

This is purely a verbal amendment.

Mr. K. R. VENKATARAMA AYYAR:—" I second it, Sir."

The amendment was put and carried.

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* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, in sub-clause (i) (b) the word 'or' be omitted; in sub-clause (i) (c) in line 3, for the word 'or' the word 'and' be substituted; and in sub-clause (i) (d) in line 4, for the word 'persons' at the end, the words 'persons; and' be substituted."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it, Sir."

The amendment was put and carried.

* Mr. V. T. ARASU:—"Mr. President, I move—

'that after sub-clause (d), the following new sub-clause (e) be added:—

"(e) and any other plea the landholder may put forward"

"It seems to be curious that Government should say that the landholder should raise only such and such pleas. What this amendment aims at is that the landholder should be at liberty to raise any other plea than those enumerated in sub-clauses (a) to (d). Government say that he can raise only certain specific points mentioned in sub-clauses (a) to (d); I think it is unfair that the proprietor of a tank should be estopped from raising any plea that he may think fit and which may be necessary for the case. It is better that the courts are given discretion to say whether a certain plea is proper or not."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in the following Tamil speech:—

"கலெக்டர் நியாயத்தை எடுத்துக்கொள்ள அதிகாரமிருக்கும்போது பார்ட்டி சொல்வதை இன்னதென்று வரையறுப்பது நியாயமில்லை."

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, this amendment seems to be quite unnecessary. We have already provided in the Bill that the landholder may raise certain objections to the order of the Collector and it does not seem to me desirable to give him power to raise all sorts of pleas. No instances have been given either by the Mover or the Seconder to indicate the kind of pleas that would be put forward under this amendment."

* Mr. K. R. VENKATARAMA AYYAR:—"Mr. President, I was only going to say that if the Mover or the Seconder would give an indication of what further plea than those set out in the various clauses of the Bill could be raised, they would help us to consider whether any new category of pleas should be provided for or not. Really, all the possible pleas have been provided for. A landholder may say, 'I am not the landholder concerned in this tank', or he may say that 'the tank is in an excellent state of repair' and 'it does not require to be repaired at all'; or he may say that the sort of repair that the Collector proposes is unnecessary and unduly costly and that a less costly scheme would suffice. Or, he may say, no doubt the repairs are necessary, but the cost should not be thrown entirely upon him and that there are other parties

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who by contract, or by custom and usage are bound to share the cost of repair. These are the various categories which occurred to the author of the Bill as well as to the members of the Select Committee as the only available heads under which landholders might raise pleas. If any other plea is envisaged by the Mover or Seconder, even by way of illustration, we shall be in order in providing for any distinct category. We generally have in very many statutes distinct categories of cases provided for and a general category so as to provide for cases *eugesdem generis*. So far as cases *eugesdem generis* are concerned, they would be covered by one or other of these specific provisions. We have no provision like 'whatever other plea is available.' A clause stating simply that any other plea that may be available might be put forward, is not reasonable. That is not legislation." 1-30
p.m.

V.—HIS EXCELLENCY THE GOVERNOR'S MESSAGE THANKING THE COUNCIL FOR THEIR RESOLUTION OF CONGRATULATION ON HIS APPOINTMENT AS ACTING VICEROY.

* The hon. the PRESIDENT:—"Before we rise, I wish to inform the House that His Excellency the Governor writes to me a letter expressing his sincere thanks for the resolution passed by this House on the 29th January congratulating him on his appointment as Acting Viceroy. I will read out the letter for the information of the House:—

' Government House,
Madras,

5th February 1934.

' Dear Mr. President,

I have, unfortunately, not been well enough during the last few days to write any letter, but now that I am able to do so. I do not delay in writing to ask you to be so kind as to convey to the Members of the Legislative Council my most sincere thanks for the resolution of congratulation which they were so kind as to pass on the announcement that I am to act temporarily as Viceroy. Many kind words were used in moving that resolution and I am deeply grateful to all Members of the Legislative Council.

Yours sincerely,
GEORGE STANLEY.' "

VI.—THE BIHAR EARTHQUAKE RELIEF FUND.

* The hon. the PRESIDENT:—"I may also suggest to the hon. Members of the House that in pursuance of the resolution passed the other day regarding the earthquake, no attempt seems to have been made by any Member of this House to collect money. I would only advise at this stage that the several Leaders of Parties and Whips might meet together and devise ways and means for raising subscriptions."

The House then adjourned for lunch.